

Applicants: Boute et al.
Serial No. 10/020,880
Page 2

REMARKS

Claims 1-11, 31-35, 38 and 39 were rejected under 35 USC 102(e) in view of the '638 patent. This rejection is respectfully traversed.

As the Examiner is well aware, for a rejection to be proper under section 102, every claimed element must be present in the cited reference. Despite the Examiner's assertion to the contrary, the '638 reference fails to teach the computer system as claimed, the signal means as claimed or the circuit connection as claimed. As such, the rejection is unsupportable and must be withdrawn.

It would appear that the Examiner is relying somewhat exclusively on the figures presented in the '638 reference and furthermore on assumption made about what those illustrations actually include. The "computer system" relied upon by the Examiner is programmer 20 in the reference. Programmer 20 is, as addressed in the background of the present application as well as within the cited reference, is a dedicated medical device programming unit. Element 22 is a programming head; not a "mouse" as asserted by the Examiner. A programming head includes a coil antenna that facilitates inductive coupling with an antenna within an implanted device. A medical device programmer would include a keyboard, but generally not a keyboard port as provided in the personal computer context.

Thus, while such a programmer could include a simple port, there is no element that collects patient data, transforms that data into a prescribed form as defined by that simple port and then communicates that data through the simple port. The programming head is an integral component of the programmer; it is not coupled to a simple port nor is the information transformed to some arbitrary form as required by such a port.

The Examiner's sole support for the rejection is the reference to FIGS. 1B and element 20. As indicated, when the reference is considered as a whole, the claimed invention is not anticipated. Should the Examiner choose to maintain such a rejection the Examiner is requested to provide specific reference to a

Applicants: Boute et al.
Serial No. 10/020,880
Page 3

simple port that is disclosed; a data collection means that interfaces with that port and a transforming means that converts the collected data into a format defined by that port.

With respect to the rejection based on the '104 reference, the Examiner again has assumed elements not actually disclosed in the reference. The computer 318 referred to does not collect data as claimed. While FIG. 1 indicates communication with an implantable device, there is absolute no teaching, suggestion, or indication that data is gathered by one device, formatted into the format recognizable by a simple port (e.g., mouse interface), and provided to a computer via that port. This rejection is improper and must be withdrawn.

With respect to the rejection based upon the 346 reference, that rejection fails under section 102 for the same or similar reasons. In addition, the Examiner has admitted certain deficiencies in the reference required a rejection under 35 USC 103(a). While Applicant traverses the merits of such a rejection under section 103, the reference is removed as reference under 35 USC 103(c). Specifically, at the time of invention both the present application and the '346 reference were commonly owned or subject to an obligation to assign ownership to the present assignee, Medtronic, Inc. Similarly, the other cited references addressed herein are also excluded under 35 USC 103(c).

Applicants: Boute et al.
Serial No. 10/020,880
Page 4

CONCLUSION

Applicant respectfully asserts that the claims are in condition for allowance and notice of the same is respectfully requested. Finally, if there are any formal matters remaining after this response, the Examiner is requested to telephone the undersigned attorney to attend to these matters.

Respectfully submitted,

Date: 9/17/04



Daniel G. Chapik
Reg. 43,424
Telephone: (763) 514-3066
Customer No. 27581